State Notes
TOPICS OF LEGISLATIVE INTEREST
January/February 2005

MDOT's Increased Reliance on Borrowing and Ballooning Debt Service Costs
By Craig Thiel, Fiscal Analyst

Introduction

Since 2001, the Michigan Department of Transportation (MDOT) has incurred almost $1.1 billion in new short- and long-term debt to supplement ongoing transportation revenue for its road and bridge infrastructure investment[1]. The majority of the borrowing was associated with former Governor Engler's Build Michigan II program ($600.0 million) and Build Michigan III program ($308.2 million). The remainder ($185.7 million) effectively provided funding for phases of a number of preservation and road capacity improvement projects previously deferred under Governor Granholm's Preserve First program. The use of borrowing to augment ongoing transportation revenue is not a new practice for the State of Michigan; however, the level of debt financing used in the last four years has not been seen recently. The result of the heightened level of borrowing, coupled with additional planned borrowing in 2006 through 2009, is a ballooning annual debt obligation that will peak in fiscal year (FY) 2008-09, measured both in nominal terms and as a percentage of the annual revenue available to MDOT to deliver its capital program.

Increased Use of Borrowing: 2001 Through 2004

In early 2001, the State Transportation Commission authorized MDOT to issue up to $900.0 million in long-term debt to finance the Build Michigan III program. In the summer of 2001, MDOT issued its first and only installment of Build Michigan III bonds, totaling $308.2 million. Under the original financing plan, yearly debt service payments would be covered by an annual $35.0 million transfer from the Countercyclical Budget and Economic Stabilization Fund (BSF) to the State Trunkline Fund (STF), beginning in fiscal year 2000-01. As a result of the challenges facing the State's General Fund/General Purpose budget, this transfer occurred in FY 2000-01 and FY 2001-02 only. Since that time, debt service on the outstanding Build Michigan III bonds is being paid by STF revenue directly and the BSF no longer provides revenue to the State's road and bridge capital program.

In July 2001, MDOT issued $400.0 million in short-term notes to advance and accelerate the delivery of its Build Michigan II program. Again in September 2002, MDOT issued another $200.0 million in notes for the same purpose. The Department used a unique financing method not previously employed called *grant anticipation notes* to borrow the $600.0 million[2]. Interest and principal payments on these notes are covered by the State's share of future annual Federal highway funds. The Department was able to take advantage of historically low interest rates when it issued these notes in 2001 and 2002, making their short-term nature more attractive than traditional 20- or 30-year bonds. It is argued that by advancing the Build Michigan program through the use of borrowing, the Department was able to avoid some of the inflationary cost increases that would occur if the projects were funded entirely

[1] This does not include refunding bonds issued since 2001.
[2] For a detail description of this borrowing, see "Build Michigan II and Grant Anticipation Revenue Vehicles", Senate Fiscal Agency, State Notes, July/August 2001. http://www.senate.michigan.gov/sfa/Publications/Notes/2001Notes/NotesJulAug01Thiel.PDF

on a pay-as-you-go basis, i.e., from current transportation revenue. In August 2004, MDOT also issued $185.7 million in long-term bonds to support its capital program, which subsequently allowed for the restoration of phases of 17 road and bridge preservation and capacity projects, many of which originally were included in the Build Michigan III program but deferred under the Preserve First program[3]. The estimated cost to complete the 17 restored projects is $1.0 billion.

Table 1 lists short- and long-term outstanding debt that is supported by State restricted transportation revenue or Federal highway funds. As of September 30, 2004, there was $1,655.7 million in outstanding debt supported by either State road and bridge revenue or Federal highway funds. Since FY 1999-2000, the amount of outstanding debt has increased 161.5%. The amount of outstanding debt is projected to peak in FY 2005-06 at $1,848.9 million, when the Department is expected to issue $260.0 million in long-term debt and before full repayment of the $600 million in short-term Build Michigan II notes (described below). An issue to be examined is the fiscal impact of the heightened reliance on borrowing over the past five years to deliver the State's annual road and bridge program.

Table 1

Outstanding Michigan Transportation Debt
(Millions of Dollars)

	FY 1999-2000	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Long-Term Bonds*	$633.2	$928.1	$911.9	$891.9	$1,055.7
Short-Term Notes	$0.0	$400.0	$600.0	$600.0	$600.0
Total	**$633.2**	**$1,328.1**	**$1,511.9**	**$1,491.9**	**$1,655.7**

* All State Trunkline Fund debt, including refunding bonds.

Source: Michigan Department of Transportation

Rising Debt Costs

Table 2 lists the total projected revenue from all sources available to MDOT for its road and bridge capital program and the estimated debt service requirements for the seven-year period, FY 2003-04 through FY 2009-10. The data reflect the revenue assumptions included

[3] On Thursday, April 3, 2003, MDOT announced the Preserve First program as a "new program that increases emphasis on the preservation of our transportation system rather than on expanding it." This program consisted of three components: planned preservation projects, new preservation projects, and deferred capacity improvement projects. On Friday, April 4, 2003, MDOT announced the deferral of 34 projects. During the FY 2003-04 budget negotiations in the summer of 2003, legislators, and administrative officials agreed to provide approximately $250.0 million in new road and bridge funding to reinstate phases of 17 of the 34 previously deferred projects. During the negotiations, it was decided that $200.0 million of the total funding would come from long-term borrowing.

in the current Five Year Transportation Program[4]. The revenue data include both ongoing revenue (State and Federal) and borrowing proceeds. Annual debt service totaled $75.0 million last year (FY 2003-04); however, it is expected to increase to $334.0 million by FY 2008-09, a 345.3% increase. Similarly, debt service as a percentage of the revenue available will increase nearly four fold, from 5.3% in FY 2003-04 to 20.9% in FY 2008-09[5]. This increase is directly related to the repayment schedule of the $600.0 million in short-term notes issued in 2001 and 2002 for the Build Michigan II program.

Table 2
State Road and Bridge Capital Program[6]
(Millions of Dollars)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
Revenue	$1,423.0	$1,317.0	$1,641.0	$1,456.0	$1,514.0	$1,595.0	$1,439.0
Debt cost*	$75.0	$112.0	$197.0	$263.0	$287.0	$334.0	$129.0
Investment (revenue after debt)	$1,348.0	$1,205.0	$1,444.0	$1,193.0	$1,227.0	$1,261.0	$1,310.0
Debt as % of revenue	5.3%	8.5%	12.0%	18.1%	19.0%	20.9%	9.0%

* Does not include debt service for Economic Development Fund, Critical Bridge, and Blue Water Bridge

Source: Michigan Department of Transportation; SFA calculations

As noted above, MDOT used short-term grant anticipation notes for Build Michigan II, which requires the Department to make principal and interest payments with Federal highway funds. Although the bond proceeds have been exhausted, annual debt payments will continue through FY 2008-09. As of October 1, 2004, the Department had not made any principal payments on these notes; however, it had made interest payments totaling $20.3 million. The first principal payment of $20.0 million will be made this year, followed by $80.0 million in FY 2005-06, $140.0 million in FY 2006-07, $160.0 million in FY 2007-08, and $200.0 million in FY 2008-09. At the time the Build Michigan II notes were issued, it was believed that a new Federal highway program would provide sufficient new resources to satisfy these scheduled principal payments without substantially affecting the annual road and bridge investment level. At this time, the level of Federal highway funding that Michigan will receive this year and in the future is unknown.

[4] MDOT's annual Five Year Transportation Program is a financially constrained plan for transportation investment. In other words, this document is not a "wish list" of projects, but a realistic estimate of projects or project phases to be undertaken based on the amount of resources that will be available during a given period of time. The cost of the various transportation projects, regardless of mode, included in the Program cannot exceed the revenue available during the specified period. A new Program (volume 5), covering 2005 to 2009, was issued on January 31, 2005. With respect to the State road and bridge component of the new program, total revenue available to MDOT during the five-year period is estimated at $7.5 billion in State and Federal resources. The total projected investment level (after required debt service) during the period is $6.3 billion.

[5] Despite the heightened use of borrowing in recent years, MDOT will remain below the debt service limits established in Public Act 51 of 1951 and by the State Transportation Commission.

[6] Includes revenue for "routine maintenance", which averages $269.0 million per year for the period.

The current Federal program expired on October 1, 2003; however, it has been extended through May 31, 2005. For the most part, this means that Michigan continues to receive Federal funding under the previous Federal highway program formulas. Continued delays in the reauthorization of the Federal highway program, coupled with the generally small funding increases received to date, mean that proportionately more Federal resources must be designated for the debt service on Build Michigan II notes. Furthermore, and more significantly, less-than-anticipated Federal highway revenue will force the Department to convert the entire $600.0 million in Build Michigan II notes to State-supported long-term bonds beginning in FY 2005-06. This will require the issuance of new, additional debt. Committing future Federal revenue to the repayment of notes without additional revenue, either from Federal or state sources, would have a negative impact on the projected road and bridge capital investment level during the next five years.

Fiscal Impact on the Road and Bridge Program

In order to pay off the short-term notes on schedule, MDOT plans to issue $600 million in new State-supported debt over the next four years ($100.0 million in FY 2005-06, $140.0 million in FY 2006-07, $160.0 million in FY 2007-08, and $200.0 million in FY 2008-09). This additional borrowing will add to MDOT's annual debt service schedule and prolong the repayment of the initial $600.0 million from five years to 20 years. It is estimated that the new borrowing will add $37.0 million to the annual debt service schedule, after the last issuance in FY 2008-09. The projected annual debt service costs will fall in FY 2009-10, after conversion of the short-term debt, to $129.0 million or about 9.0% of available revenue.

The existing financial plan for the State road and bridge capital program also assumes a second round of borrowing to supplement current ongoing revenue. The Department plans to issue $260.0 million in FY 2005-06. The estimated annual cost of this debt will be $20.0 million, assuming repayment over 30 years. The bond proceeds will cause a spike in the annual road and bridge investment level in FY 2005-06 at $1,444.0 million (shown in Table 2).

Further borrowing, beginning next fiscal year, will provide the Department with the additional resources needed to meet the scheduled principal payments of the Build Michigan II notes without severely affecting the level of annual investment in the State road and bridge capital program. Table 2 lists the revenue available for road and bridge investment on an annual basis, after debt costs have been deducted. Based on the current financing plan, the average annual investment level for the next five years will be approximately $1,266.0 million. Without the additional borrowing associated with the conversion of the Build Michigan II notes to long-term bonds ($600.0 million) and the FY 2005-06 issuance ($260.0 million), the average annual investment would be about $1,062.0 million, a reduction of 16.1% to the Department's capital program. Although the decision to repay the short-term notes with the proceeds from long-term bonds will increase annual debt costs and extend the term of indebtedness, it will allow MDOT to maintain an average annual investment of almost $1.3 billion.

Conclusion

It appears that without a significant increase in the ongoing revenue streams available to MDOT before FY 2005-06, additional long-term borrowing will be the only way to satisfy the ballooning debt service associated with the Build Michigan II program without significantly reducing the annual road and bridge capital investment level. The Department's increased reliance on short- and long-term debt over the past four years suggests that borrowing will continue as a financing strategy to support the State's road and bridge capital program. Although the proceeds from debt-financing can provide the resources needed in the near-term for programs such as Build Michigan and Preserve First, they do very little to address long-term revenue needs. Ultimately, the State must weigh the costs and benefits of additional borrowing as it attempts to find the appropriate balance of ongoing revenue and debt-financing to support road and bridge infrastructure investment.

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Agriculture Equine Industry Development Fund
By Craig Thiel, Fiscal Analyst

Introduction

State support for the horse racing industry in Michigan generates considerable discussion during annual budget deliberations. For the most part, discussion has centered around appropriations from the Michigan Agriculture Equine Industry Development Fund (AEIDF). Funding from the AEIDF again will be an issue as the Legislature prepares the fiscal year (FY) 2005-06 budget. Appropriations from the Fund in the current FY 2004-05 budget total $17.3 million and support various horse racing-related programs, a General Fund reimbursement, and a portion of the bovine tuberculosis program. This article provides a summary of AEIDF revenue, appropriations, and expenditures from FY 1995-96 to the present.

Revenue

The Horse Racing Law of 1995 created the AEIDF to provide funding for agriculture and equine industry development programs as provided in the Act. The Fund receives revenue from four principal sources: simulcast wagering taxes, horse racing licensing fees and fines, uncashed winning tickets, and, as of September 2004, a portion of the tax levied on Detroit casinos. Revenue to the AEIDF peaked in FY 1999-2000 at $13.7 million. Since that time, the Fund experienced a 9.4% revenue reduction to $12.4 million in FY 2003-04. Table 1 lists the annual revenue deposited in the Fund by source through FY 2003-04.

Table 1

Agriculture Equine Industry Development Fund
Revenue by Source
(millions of dollars)

	FY 1995-96	FY 1996-97	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Simulcast Tax	$5.7	$11.6	$12.7	$12.7	$12.7	$11.8	$11.8	$11.1	$11.1
Fees/Fines	0.2	0.3	0.3	0.2	0.2	0.2	0.2	0.2	0.2
Uncashed Tickets				0.6	0.8	0.7	0.7	0.7	0.7
Casino Tax									0.5
Total*	**$5.9**	**$11.9**	**$13.0**	**$13.5**	**$13.7**	**$12.7**	**$12.7**	**$12.0**	**$12.4**

* Totals may not add due to rounding.

The primary source of revenue to the AEIDF is the simulcast wagering tax paid by each race meeting licensee, i.e., racetrack[1]. The tax is levied at the rate of 3.5% on all money wagered on interstate and intrastate simulcast races[2]. The simulcast wagering tax represents the only State tax levied on horse racing in Michigan[3]. As shown in Table 1, the tax revenue declined from FY

[1] "Simulcasting" means televising a live horse race to other tracks or other outlets for the purpose of wagering on the race.
[2] The tax rate was 2.5%, until January 1997, when it was changed to 3.5%.
[3] Before the Horse Racing Law of 1995 was enacted, the State taxed live racing conducted at Michigan tracks. The simulcast wagering tax effectively replaced the live wagering tax as the State tax levied on wagering.

1999-2000 to FY 2000-01; the reduction is attributable to the increase in competition for wagering dollars associated with the opening of the three Detroit casinos between July 1999 and November 2000. The AEIDF experienced an initial reduction of 7.1% in tax revenue following the opening of the Detroit casinos and a subsequent 6.0% decline between FY 2001-02 and FY 2002-03 as a result of decreased simulcast wagering associated with the increased competition from other gaming outlets in Michigan and Canada.

Public Act (P.A.) 505 of 1998 provided a new revenue source for the AEIDF: a portion of the uncashed winning tickets at each racetrack. Under P.A. 505, half of the uncashed winning ticket revenue each year is retained by the track while the other half is deposited in the AEIDF and earmarked for horse breed-specific programs.[4] Before the passage of P.A. 505, all uncashed winning ticket revenue was treated as escheated property to the State and deposited in the General Fund. The amount of revenue from this source has remained fairly constant, about $700,000 annually.

Unlike the other revenue deposited in the AEIDF, revenue from uncashed winning tickets is earmarked for specific programs authorized in the Horse Racing Law of 1995. For example, the revenue received from a standardbred licensee (i.e., racetrack) is designated for standardbred programs while the revenue received from a thoroughbred racetrack is available only for thoroughbred programs. This earmarking provision effectively provides a funding floor for the various standardbred and thoroughbred horse racing programs. The other revenue in the AEIDF, regardless of its origin (e.g., standardbred or thoroughbred simulcast wagering), is designated for the broad purpose of agriculture and equine industry development pursuant to Section 20 of the Horse Racing Law.

In August 2004, P.A. 306 of 2004 made several changes to the tax levied on the three Detroit casinos, effective September 1, 2004. Public Act 306 imposed a new 6.0% gross wagering tax on the casinos, bringing the total tax to 24.0%. Of the new tax, 1/3 of the revenue is allocated to the City of Detroit, 7/12 to the State General Fund, and 1/12 to the AEIDF. Under P.A. 306, the three casinos will not be required to pay the new State tax once the permanent casinos are fully operational or if and when video lottery is operational at Michigan horse racetracks. The annual revenue to the AEIDF from this source is estimated at $6.1 million, which is expected to bring total Fund revenue up to $17.1 million in FY 2004-05, an increase from the previous year of 37.9%.

Appropriations/Expenditures

Section 20 of the Horse Racing Law lists the various uses of AEIDF revenue. Annually, an amount from the AEIDF equal to 0.01% of the gross wagers made at Michigan racetracks is deposited in the Compulsive Gaming Prevention Fund. This amounts to about $33,700. After this "off-the-top" allocation, funding is provided to a number of horse racing programs established in Section 20. In addition to the racing programs, the Horse Racing Law allows funds to be used for capital grants to fairs and for a portion of the premiums paid by county and

[4] Under P.A. 505, in 1998 all of the uncashed winning ticket revenue from a thoroughbred race track was retained by the race meeting licensee for development and capital improvements at the track. Beginning in 1999, the revenue was split evenly between the meeting licensee and the AEIDF.

State fairs. In all of these cases, there is a statutory cap on the amount of AEIDF funding for each program. In some cases, the amount is a specific dollar amount (e.g., capital grants are limited to $15,000 per fair per year), while in other programs the amount of AEIDF funding is limited to a percentage of the total (e.g., AEIDF revenue may comprise not more than 75.0% of purse supplements paid for certain horse races).

In addition to the horse racing and fair programs, revenue from the AEIDF has been used to support various State administrative functions in the Department of Agriculture, some related to the equine industry and others not. For example, funding has been used to support equine drug testing in the Department's laboratory program and regulatory functions in the Office of Racing Commissioner. In FY 1997-98, nearly $3.0 million was appropriated for Department of Agriculture programs not directly related to the equine industry. The FY 2004-05 budget contains $250,000 from the AEIDF for individual animal testing in northeastern Michigan associated with the bovine tuberculosis program.

The FY 2003-04 budget contained a new use of AEIDF revenue, specifically a transfer to the State General Fund. Faced with a significant General Fund shortfall, the Governor presented an FY 2003-04 budget that replaced General Fund appropriations in the Department of Agriculture with appropriations from the AEIDF, totaling $2.0 million. These funding shifts generated $2.0 million in General Fund savings. The Legislature reworked the Governor's proposal to maintain the General Fund support for ongoing Department programs; however, it provided a direct AEIDF appropriation to the General Fund. This produced the same result sought by the Governor, namely offsetting General Fund appropriations by $2.0 million in the Agriculture budget. This structure, however, did not make ongoing Department programs dependent on AEIDF appropriations for support. The FY 2004-05 budget again included a $2.0 million AEIDF appropriation to the General Fund to help with the estimated overall State budget shortfall.

Table 2 lists AEIDF revenue, appropriations, actual expenditures, and year-end balances through FY 2004-05. To a large extent, annual appropriations from the AEIDF have relied on prior-year carryfoward revenue to support current-year expenditures. With the exception of FY 1999-2000, annual appropriations exceeded revenue in every fiscal year. From FY 1996-97 through 1998-99, annual appropriations were supported, in part, by a portion of the carryforward balance of $5.7 million from FY 1995-96, when no appropriations from the Fund were authorized.

Table 2

Agriculture Equine Industry Development Fund
Revenue and Expenditures
(millions of dollars)

	FY 1995-96	FY 1996-97	FY 1997-98	FY 1998-99	FY 1999-2000	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
Beginning Balance	$0	$5.7	$4.0	$1.4	$0.6	$1.7	$1.1	$0.7	$1.3	$1.2
Revenue	5.7	11.9	13.0	13.5	13.7	12.7	12.7	12.0	12.4	17.1*
Appropriations	0	13.6	18.5	14.3	12.8	13.3	13.5	12.4	12.7	17.3
Expenditures	0	13.6	15.6	14.3	12.6	13.3	13.1	11.5	12.6	17.3
Year-End Balance	$5.7	$4.0	$1.4	$0.6	$1.7	$1.1	$0.7	$1.3	$1.2	$1.0*

* Estimated as of January 2005.

In recent years, the Legislature has given priority to horse racing programs when appropriating AEIDF revenue. For example, the FY 1999-2000 budget included funding shifts for two fair-related programs, capital improvements, and premiums that previously were supported with AEIDF revenue. Similarly, the FY 2001-02 and FY 2004-05 budgets included funding shifts in the Office of Racing Commissioner appropriation, replacing AEIDF support with other restricted resources. The objective of these funding shifts was to redirect limited AEIDF revenue to horse racing programs and provide these programs with the maximum funding possible in light of decreasing annual revenue.

Appropriations from the AEIDF rise to $17.3 million in the FY 2004-05 budget. This increase is the result of the new casino tax revenue that the Fund began receiving in September 2004. The estimated annual amount of this revenue is $6.1 million. As a result of this new revenue, appropriations from the Fund were increased in FY 2004-05 to support a number of equine grants ($140,000), the bovine tuberculosis program ($250,000), capital improvements at race meeting licensees ($3.0 million), and various horse racing programs ($2.7 million). It is worth noting that this revenue is not treated any differently than other AIEDF revenue appropriated in the budget. The $3.0 million appropriation directly to the tracks, however, represents a significant shift in the use of AEIDF revenue.

Before the FY 2004-05 budget was enacted, AEIDF revenue had never been appropriated directly to racetracks. Although the tracks retain one-half of the uncashed winning ticket revenue annually, the remaining half is deposited in the AEIDF for subsequent distribution to the various horse racing programs. The Horse Racing Law does not provide any specific program for the distribution of AEIDF revenue to tracks. Therefore, the current-year budget (P.A. 353 of 2004) contains language directing the Department of Agriculture to allocate the $3.0 million to the tracks based on each track's proportion of total wagering during calendar year 2004. The funding will be distributed on a 50/50 matching basis and must be used only for capital improvements that comply with the Horse Racing Law. Table 3 lists the distribution of the capital improvement grants in FY 2004-05 under P.A. 353.

Table 3

Distribution of FY 2004-05 Capital Improvement Grants			
Licensee	**Total Wagering**	**% of Total**	**Grant**
Great Lakes Downs	$15,433,095	4.57%	$136,279
Hazel Park	$147,810,670	43.80%	$1,305,216
Jackson	$13,247,746	3.93%	$116,982
Mt. Pleasant	$2,479,293	0.73%	$21,893
Northville Downs*	$71,266,124	21.12%	$629,303
Northville Racing Corp.*	$41,843,963	12.40%	$369,496
Saginaw	$12,852,151	3.81%	$113,489
Sports Creek	$32,540,420	9.64%	$287,342
Total	**$337,473,462**	**100.00%**	**$2,980,000**

* Two licensees, Northville Downs and Northville Racing Corp., conduct racing during different times of the year at the track in Northville Township.

Conclusion

The primary revenue source of the Agriculture Equine Industry Development Fund, the State simulcast wagering tax, has declined since FY 1997-98 as a result of increased wagering competition in Michigan. This decline has been offset, in part, by the establishment of two new revenue sources to the Fund, uncashed winning tickets and the Detroit casino tax, which will account for over one-third of total Fund revenue in FY 2004-05. While most of the AEIDF is still appropriated for programs established under the Horse Racing Law of 1995, including horse racing programs, appropriations from the Fund support a number of new programs. For example, the Fund is helping balance the State's General Fund and supports a grant program to provide capital improvements at tracks. As the Governor and Legislature begin the process of crafting the FY 2005-06 budget, AEIDF appropriations will command considerable attention relative to the funding levels for these new programs and for those historically supported by the Fund.

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Manufactured Housing Taxation and Regulation
By J.P. Finet, Legislative Analyst

Mobile home parks have been dotting the Michigan landscape since the Great Depression, but it was during the World War II housing shortage for defense workers that the mobile home evolved from what had been an inexpensive, temporary housing option for migrant workers into a permanent housing solution for a large number of the State's working-class families and retirees. Today, the mobile home industry and park residents refer to their homes as "manufactured housing" and there are more than 140,000 units located in developments across Michigan, with roughly 5,000 units added annually. Although the terminology describing the homes has been updated to keep up with the times, a large number of Michigan's municipalities and some of the manufactured housing residents have long argued that the State's laws regarding taxing and regulating the parks have not.

The Specific Tax on Manufactured Housing

In 1959, Michigan began taxing mobile homes in mobile home parks at the rate of $3 per month; 46 years later, the rate has not been increased. Michigan's cities, counties, and townships often point out that the cost of providing services to manufactured housing parks increases each year, yet the local units receive only $1 per month from each manufactured home within their borders to supply roads, police, and fire protection. (The remaining $2 is allocated to the State School Aid Fund.) The $3-per-month specific tax applies only to those manufactured homes on rented lots in manufactured housing communities. Manufactured homes that sit on individually owned lots are subject to the ad valorem property tax in the same manner as traditional site-built homes are taxed.

Some people contend that the State's current system for taxing the homes was never intended to cover the type of manufactured housing that exists today. When the tax was first implemented, it was designed to tax units in so-called trailer coach parks, where it was assumed that residents were transients and would hook their trailers up to their cars and drive off after only a few months of residency. Today's manufactured housing parks are rarely transient communities, with residents living in multisection homes that have been bolted to foundations and sit on lots that often feature such amenities as decks, sheds, and garages.

Manufactured housing may provide the only affordable housing in many communities, but there has long been a stigma attached to mobile homes and municipalities regularly have fought to exclude them. Indeed, the Michigan Manufactured Housing Commission was established in 1976 in an effort to prevent cities and townships from enacting overly restrictive zoning ordinances to keep manufactured housing out of their communities. The tax disparity between manufactured homes and traditional site-built homes has exacerbated the problem in recent years.

During Senate committee hearings on proposed changes to the specific tax, a number of people testified that large-scale manufactured housing parks in their communities were leading to school crowding. They claimed that large parks can add hundreds of students to a school, yet their residents are not taxed when bond issues are passed to construct new facilities. Reportedly, this has contributed to crowded schools in some communities where residents living in site-built homes refuse to support bond issues to construct needed classroom space, because the perception is that the space will be filled by manufactured housing residents.

A New Specific Tax

While local governments have argued for some time that the tax rate for manufactured housing is inadequate to support the services the housing receives, repeated efforts to tax the homes based on their value have not been successful. During the 2003-04 legislative session, several bills proposed either to tax manufactured housing on a modified ad valorem system, or to increase the monthly specific tax. Differing versions of legislation to establish a new monthly specific tax (House Bill 4880) passed the Senate and the House of Representatives but neither was enrolled. In one version, the proposed tax would have gradually increased the amount a manufactured homeowner paid until it reached $12 per unit for single-wide homes and $14 per unit for a double-wide unit in 2014. This was promoted as a compromise between the current tax and an ad valorem system. It was strongly opposed by the manufactured housing industry, park residents, and cities and townships. Although the proposed tax would have increased the tax revenue for cities and townships, local governments opposed the flat monthly tax on the ground that it would be difficult to raise the amount in the future, whereas an ad valorem tax would increase revenue as the value of manufactured housing in a community grew.

In January 2005, Senator Raymond Basham reintroduced two of the unenacted manufactured housing taxation bills from the 2003-04 session. Senate Bills 106 and 107 would amend the General Property Tax Act and Public Act 243 of 1959 (regulating trailer coach parks), respectively, to tax manufactured housing through an ad valorem system. Senate Bill 106 would assess homes in manufactured housing parks as real property under the General Property Tax Act. Senate Bill 107 would levy a specific tax based upon a percentage of a manufactured home's assessed value. Both bills would repeal the current specific tax on manufactured housing.

Those involved in crafting the legislation contend that Michigan is the only state in the country where manufactured housing is assessed a flat-fee tax rather than a tax based upon a home's value. Other states use different approaches to a value-based system for taxing manufactured housing. Typically, they tax the homes under the same ad valorem system applied to traditional site-built homes, using either the manufactured home's assessed value or some percentage of that amount to determine the tax owed.

While manufactured housing is not subject to the general property tax, representatives of the manufactured housing industry say that the residents are paying their fair share of State taxes. They point out that manufactured housing sales are subject to the Michigan sales tax each time a unit is sold and that the purchaser receives no credit for that amount when paying his or her specific tax or income tax.

Additionally, the industry argues that manufactured housing parks are not eligible for the general property tax's homestead exemption and so are taxed at the full 18 mills. Therefore, although owners of manufactured housing are not directly paying the property tax, they are taxed indirectly through the higher lot rents they pay to allow park owners to recoup their higher property tax bill.

Most manufactured homeowners are adamantly opposed to any change in the current tax system, but some organizations believe that an ad valorem property tax system could help the owners of manufactured housing. Those groups, such as the Manufactured Home Owners Legislative Association of Michigan (MOLA) contend that homeowners should support the ad valorem tax because it would protect low-income residents from paying an increased tax, since the ad valorem tax levied on a home valued at only a few thousand dollars would be significantly less than the proposed increases to the specific taxes. An ad valorem tax also could end the commonly held perception that residents living in upscale manufactured housing are not paying their fair share of taxes.

Proponents of the ad valorem tax believe that simply raising the specific tax would not be fair because a person living in a $3,000 mobile home would end up paying the same amount of tax as someone living in a $100,000 home with a garage and deck. Currently, the owners of manufactured homes pay property taxes on improvements to the land, such as garages, porches, and decks. One version of House Bill 4880, however, would have stopped taxing those improvements as real property, and the owners of many upscale manufactured homes actually could have ended up paying a smaller amount under the increased specific tax.

Other Taxation Concerns

During Senate committee testimony discussing proposed alterations to the specific tax on manufactured housing, industry representatives repeatedly argued that the tax would hurt their trade, which already is experiencing financial difficulties. With many potential buyers of manufactured housing units now able to afford home mortgages due to current low interest rates, there are fewer buyers available to buy manufactured housing, they claimed.

The $36 annual tax on manufactured housing located in parks has been a major selling point for residents concerned about their tax bills, and the industry is worried it may lose its customers to other forms of housing if there is a change in the tax. According to both manufactured housing residents and the industry, many developments that used to have waiting lists now have a significant number of empty lots for which they cannot find tenants.

Manufactured housing residents also have a vested interest in seeing the parks survive and stay profitable. If park owners believe that they can make more money by using their property for other purposes, such as construction sites for condominiums, it is entirely possible that the park owners will get out of that business, leaving homeowners without sites to rent.

Regulatory Issues

Taxation issues received most of the attention when it came to manufactured housing legislation introduced during the 2003-04 session, but several proposals would have given local governments more control as to the regulation of the parks themselves. Two of the bills were reintroduced in 2005 by Senator Basham as Senate Bills 108 and 109. Senate Bill 108 would amend a section of the Single State Construction Code Act authorizing the State Construction Code Commission to examine plans and specifications submitted to a local enforcing agency or governmental subdivision to determine their compliance with the Code. The bill states that this section would not prevent a governmental subdivision from conducting inspections or reviewing the site plans of mobile home parks.

Senate Bill 109 would amend a section of the Mobile Home Commission Act that requires a local unit of government to submit to the Commission a proposed standard related to mobile home parks that is higher than the statutory standard. Under the bill, a local zoning ordinance would not be subject to this requirement or reviewable by the Mobile Home Commission. The bill also would require the local unit of government containing a mobile home park, rather than the State, to conduct annual park inspections.

Currently, the Manufactured Housing Commission regulates the licensing and issuance of construction permits for mobile home parks and establishes standards for roads, utilities, open space, recreational facilities, and safety measures in a park. The Commission may refuse to enforce local zoning regulations in manufactured housing communities if it deems them too restrictive.

Most states have mobile home or manufactured housing commissions to handle consumer protection issues, but Michigan is the only one that authorizes its manufactured housing commission to address planning issues, according to a representative of the Michigan Township Association. Reportedly, the Commission exercises this authority by, for example, regularly refusing to allow communities to regulate the width of roads in a park or allowing parks to be constructed with only one entrance, both of which could affect the ability of emergency workers to reach the park.

According to the executive director of the Michigan Manufactured Housing Association, however, the Commission's broad authority is the primary reason that manufactured housing developments are still profitable in the State. Evidently, the Commission originally was formed because communities were placing so many conditions on manufactured housing developments that they were being effectively zoned out of the State. Arguably, if local governments are given more control over the process, they could begin imposing unreasonable restrictions again.

Supporters of giving local governments a hand in the inspection of manufactured housing communities claim that the State's current budget crisis has led to fewer park inspections because the inspectors are responsible for too many developments. Allegedly, owners who violate the rules are rarely caught.

Resident Rights

Another issue that received legislative attention during the 2003-04 session concerned the rights of residents of manufactured housing parks. The House of Representatives and the Senate passed different versions of House Bill 4868, which proposed the "Manufactured Homeowners' Residency Act".

Key provisions of the bill would have prohibited the owners and operators of manufactured home parks from taking certain actions against their tenants, including: denying a park resident the right to sell a manufactured home within the park if he or she complied with park regulations; prohibiting the placement of "for sale" signs on a manufactured home; prohibiting the placement of political yard signs on home sites; and prohibiting a resident from organizing a homeowners' association. The bill also would have required a park owner or operator to give residents a 30-day notice before increasing a fee, charge, or other type of assessment related to park residency. In addition, the bill proposed civil fines and remedies.

Due to the semipermanent nature of today's manufactured housing, most owners who purchase a home in one community cannot easily afford to move it to another. According to some residents, park rules that limit owners' ability to sell their homes are more onerous than when the homes actually were mobile. Since many park owners also are in the business of selling homes to prospective tenants, the parks arguably have an incentive to make it difficult for current tenants to sell their own homes. Residents also complain that parks owners and operators commonly resist attempts to form homeowners' associations geared toward improving their communities.

The manufactured housing industry opposed the legislation. According to industry representatives, the rights of manufactured homeowners already are clearly laid out in the Mobile Home Commission Act. Also, park owners are required to follow Michigan's landlord-tenant laws. In addition, some people objected to the bill because it would have placed no limit on the number of homeowners' associations that could be formed in any one community.

To date, this legislation has not been reintroduced in the House or the Senate.